UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KANYE WEST and MASCOTTE HOLDINGS, INC.,

                              Plaintiffs,

              -against-

DAVID P. MCENERY, JR., et al.,

                              Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 4/17/14

14 Civ. 250 (AT)

ORDER

ANALISA TORRES, District Judge:

On April 16, 2014, *pro se* Defendant Robbie E. C. A. Hontele e-mailed the Court his "Response to Complaint," arguing that "the New York court has no jurisdiction in this case" and that he was not properly served. A copy of his e-mail is attached to this order. The Court construes Hontele's e-mail as a motion to dismiss the complaint pursuant to Federal Rule of Civil Procedure 12(b)(2) and 12(b)(5).

Plaintiffs shall file opposition papers by May 8, 2014. Hontele shall reply by May 22, 2014.
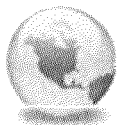
Chambers will e-mail a copy of this order to Hontele.

SO ORDERED.

Dated: April 17, 2014
       New York, New York

                                   _____
                                           ANALISA TORRES
                                   United States District Judge

Kanye West and Mascotte Holdings, Inc. v. David P. McEnery et al., 14 CV 250

Robbie E. C. A. Hontele   to: Rose, Brad D., Gauthier, Madelon A., torres_nysdchambers   04/16/2014 07:22 AM

Cc: "Finguerra-DuCharme, Dyan", "Klarberg, Ryan S."

From: "Robbie E. C. A. Hontele" <r.hontele@gmail.com>

To: "Rose, Brad D." <BRose@PRYORCASHMAN.com>, "Gauthier, Madelon A."
             <MGauthier@PRYORCASHMAN.com>, torres_nysdchambers@nysd.uscourts.gov

Cc: "Finguerra-DuCharme, Dyan" <DFinguerra-DuCharme@PRYORCASHMAN.com>, "Klarberg,
             Ryan S." <RKlarberg@PRYORCASHMAN.com>

  1 attachment

Response to Complaint_Final.docx

-----BEGIN PGP SIGNED MESSAGE-----
Hash: SHA1

Dear sir/madam,

With this statement I would like to respond to the complaint filed
against me.
I would like to point out that I am not a native speaker of the English
language nor a resident of an English-speaking country, therefore I
apologize for any errors in grammar, spelling, pronunciation etcetera. I
hope you understand that I'm doing my best to communicate with you and
can forgive me for any mistakes caused by the language-barrier.
I will also record a video of me reading this response out loud for all
to see. I have uploaded this statement to Wetransfer and will send you a
message via that service after sending this E-mail. (This because I feel
I should settle this in person and am unable to attend)

As I have been served via E-mail it only seems logical my response to
this complaint should be allowed via E-mail.

I would like to start out by stating that the New York court has no
jurisdiction in this case. Points 19, 20 and 21 of the complaint that I
received are invalid in at least my case. I have never set foot in the
United States of America, I do not have any assets in the United States
of America and I am not doing business in the United States of America.
None of the exhibits are evidence to the contrary, so I am wondering why
Mr West's representatives have claimed this. As a citizen of The
Netherlands, only a Dutch court would have jurisdiction in this matter.
I do not have the money to fight this lawsuit in the United States.

Secondly, I find it odd that I am being served via E-mail. The United
States of America ratified the "Convention of 15 November 1965 on the
Service Abroad of Judicial and Extrajudicial Documents in Civil or
Commercial Matters"[1]. This states that serving of residents should be
served through the local system for serving. On January 14th, the court
allowed serving of defendants via E-mail because they used services to
hide their true identity. I have never used one of these services and
feel that therefore, I should be served according to the Convention.
In the timeline we have I first came into contact with Coinye on January

8th this year. I used the nickname "F1k" - Foxtrot One Kilo phonetically. This is the name I have used for a long time on the Internet and is known to be my username. My country's leading tech website [2] even has my name and e-mail in the profile page I have for that username [3]. On their forum I requested a change of nickname, from my old name "S1k" - Sierra One Kilo phonetically to my new one [4]. My old nickname and my name lead back to [5] the time when I ran for National Parliament in 2010 [6]. Based on this information I do not see how I am anonymous. As a former candidate for National Parliament I am highly locatable.

The ruling of the court that service via e-mail is allowed should only apply to the anonymous defendants. I have not been anonymous at all. Therefore, service should have been in compliance with the Convention.

Summarizing my first two points: The New York court does not have jurisdiction and the service was not legitimate.

For my third point I would like to respond to the actual claims. Point 47 states that you have information that I am affiliated with the promotion, mining and/or development of the COINYE cryptocurrency and/or the coinyetheco.in website. None of this 'information' is presented in the exhibits. I do not see why I would have done this. I did not have anything to do with the naming of Coinye. I did not have anything to do with the design of Coinye. I did not have anything to do with the development of Coinye. You have no evidence to support these claims. How can you file a lawsuit against me without evidence? Just to be clear, I am not making any money off Coinye.

My fourth comment is that this can not be a fair trial. I have no knowledge of the American legal system. I do not have the money to come over to attend trial myself, let alone to hire a lawyer to represent me in this case.

Finally I would like to point out that this trial is a waste of time and money for the state of New York, Mr. West and me. There are no treaties to collect damages in a US court from a Dutch citizen. Many of the damages that have been filed for do not exist in the Dutch legal system and would not be allowed. The Dutch trademark and copyright legislation is a lot different from the American legislation. Should there be a ruling against me, damages can not be collected until this case is done all over again in a Dutch court.

In conclusion we can see that the court in New York does not have jurisdiction, I was not properly served, I had nothing to do with the infringing of Mr West's trademark, I can not properly defend myself and this trial would have to be done all over again in The Netherlands should you wish to collect damages.

I would like to suggest that you seize this lawsuit against me.

Furthermore, by connecting my name to this lawsuit it is very hard for me to get a job, while I graduate in a little over a year. When this is all settled down I would like you to send me two signed letters that I was wrongfully accused in this case, so I can attach copies of those to my job applications and I would like you to publish a public apology to clear my name. I understand that this can not be done until the lawsuit is over and all deadlines for appeal have passed.

Yours sincerely,

Robbie E. C. A. Hontelé

[1] http://www.hcch.net/index_en.php?act=states.details&sid=76
[2] http://websitevanhetjaar.nl/past-winners/index.html
[3] http://tweakers.net/gallery/270783
[4] http://gathering.tweakers.net/forum/list_messages/1498145
[5]
https://www.google.nl/search?q=S1k+Robbie+Hontele&oq=S1k+Robbie+Hontele&aqs=ch
rome..69i57j69i64.5854j0j7&sourceid=chrome&es_sm=119&ie=UTF-8
[6]
https://www.kiesraad.nl/sites/default/files/Proces-verbaal_uitslag_TK_verkiezi
ng_2010.pdf

Attached:
- - This message in .docx format

- --
Robbie Hontelé
+316 33 90 65 66
R.Hontele@gmail.com
http://www.linkedin.com/in/robbiehontele
Public key:
https://keyserver2.pgp.com/vkd/DownloadKey.event?keyid=0x840BDE265A67FDBB
-----BEGIN PGP SIGNATURE-----
Version: GnuPG/MacGPG2 v2.0.18 (Darwin)
Comment: GPGTools - http://gpgtools.org
Comment: Using GnuPG with Thunderbird - http://www.enigmail.net/

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=j1sV
-----END PGP SIGNATURE-----